

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Re-Organization Meeting
January 10, 2013

Members in Attendance

Richard Freeburn, Chairman
Gregory Sirb, Vice Chairperson
Sara Jane Cate
David Dowling
Jeffrey Staub

Also in Attendance

James Turner, Solicitor
Dianne Moran, Planning & Zoning Officer
Watson Fisher

The meeting was called to order at 7 p. m. by Chairman Richard Freeburn.

Election of Officers

Mr. Freeburn explained that the Board needs to reorganize every year and elect officers. He requested nominated for Chairperson

Ms. Cate made a motion to reelect Richard Freeburn as Chairperson. Mr. Sirb seconded the motion. There being no other nominations, a unanimous vote followed.

Mr. Dowling suggested that he would like to mark the roster from the 2012 Zoning Hearing Board as Docket#1 and moved to adopt as officers, alternates, solicitor, staff liaison, and court reporter, those listed. Mr. Staub seconded the motion. Mr. Freeburn noted that the roster listed the following: Richard Freeburn, Chairperson; Greg Sirb, Vice-Chairperson; Sara Jane Cate, David Dowling and Jeffrey Staub as members with alternates being Allan Hansen and Watson Fisher. He noted that James Turner is the Solicitor and Dianne Moran is the staff liaison. Mr. Freeburn called for a voice vote and a unanimous vote followed.

Mr. Freeburn made a motion to approve Maureen Heberle as the Recording Secretary. Mr. Sirb seconded the motion. Mr. Freeburn called for a voice vote and a unanimous vote followed.

Mr. Freeburn made a motion to approve Filius and McLucas Reporting Services as the Court Reporters. Mr. Sirb seconded the motion. Mr. Freeburn called for a voice vote and a unanimous vote followed.

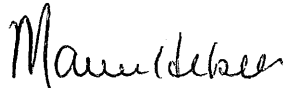
Chairperson:	Richard Freeburn
Vice Chairperson:	Gregory Sirb
Court Reporter:	Filius & McLucas Reporting Services
Recording Secretary:	Maureen Heberle
Solicitor:	James Turner, Turner & O'Connell

Selection of Meeting Time, Date and Location

The Zoning Hearing Board shall meet at 7:00 pm on the fourth Thursday of each month, with the following exceptions: the November meeting will be one week earlier on November 21, 2013, and the December meeting will be two weeks later on January 9, 2014. Motioned by Mr. Freeburn and seconded by Mr. Sirb.

Mr. Staub made a motion to adjourn the reorganization meeting. Mr. Sirb seconded the motion and the reorganization meeting adjourned at 7:08 pm.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Maureen Heberle".

Maureen Heberle
Recording Secretary

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of January 10, 2013

Members Present

Richard Freeburn
David Dowling
Sara Jane Cate
Greg Sirb
Jeffrey Staub
Watson Fisher

Also in Attendance

James Turner
Dianne Moran
Watson Fisher

Docket 1327

Applicant:

Lamar Advertising

Address:

308 South 10 Street
Lemoyne, PA 17043

Property:

4201 Linglestown Road
Harrisburg, PA 17112

Interpretation:

Article 705D.2 – Billboards are permitted in the L-1 and G-1 zoning districts and the applicant proposes to continue the use in the C-N, Commercial Neighborhood District. Article 714.A – No billboard shall be located within 1,000 feet of any street intersection and the applicant proposed to replace/reconstruct the billboard with 400 feet of the intersection with Colonial Road. Article 713.B – Major changes such as the replacement of the entire support structure of the sign shall require that the sign be placed in conformance with the Ordinance and that new embellishments to the structure of the sign frame are not permitted on non-conforming signs. Article 717 C.1 and 705.C.5 – Billboard and off-premises advertising signs are prohibited in the Linglestown Road Overlay District and the applicant's existing billboard structure is a legal and permitted pre-existing nonconforming use. Article 707.C.6 – Changeable copy of message board signs are prohibited in Linglestown Road Overlay District and the applicant proposes to have the east facing sign of the sign feature a changeable message sign that would operate and function per the Lower Paxton Township Zoning Ordinance regulations.

Grounds:

Article 714 of the Lower Paxton Township Zoning Ordinance pertains to this application.

Fees Paid: November 29, 2012

Property Posted: January 3, 2013

Advertisement: Appeared in The Paxton Herald on December 26, 2012 and January 2, 2013.

The hearing began at 7:08 p.m.

Mr. Freeburn swore in Andrew Rebuck. Mr. Rebuck explained that he is the Vice President and General Manager for Lamar Advertising located at 308 South 10th Street, Lemoyne, Pennsylvania. He noted that Lamar Advertising is a full service billboard company in the greater Harrisburg Area with over 1,200 billboards

Mr. Freeburn requested that counsel identify himself for the record. Mr. Peter Henninger, Jr. noted that he is an attorney with the firm of Jones and Henninger, located at 339 West Governor Road, Hershey, Pennsylvania. He explained that he is present to represent Lamar Advertising.

Mr. Freeburn swore in Ms. Dianne Moran who stated that she is the Planning and Zoning Officer for Lower Paxton Township.

Ms. Dianne Moran advised that the appropriate fees were paid on November 29, 2012. The proper advertisements appeared in The Paxton Herald on December 26, 2012 and January 2, 2013. The hearing notices were posed on January 3, 2013.

Mr. Freeburn questioned what ordinance this variance request was for. Ms. Moran answered Article 705D.2 – Billboards are permitted in the L-1 and G-1 zoning districts and the applicant proposes to continue the use in the C-N, Commercial Neighborhood District. Article 714.A – No billboard shall be located within 1,000 feet of any street intersection and the applicant proposed to replace/reconstruct the billboard with 400 feet of the intersection with Colonial Road. Article 713.B – Major changes such as the replacement of the entire support structure of the sign shall require that the sign be placed in conformance with the Ordinance and that new embellishments to the structure of the sign frame are not permitted on non-conforming signs. Article 717 C.1 and 705.C.5 – Billboard and off-premises advertising signs are prohibited in the Linglestown Road Overlay District and the applicant's existing billboard structure is a legal and permitted pre-existing nonconforming use. Article 707.C.6 – Changeable copy of message board signs are prohibited in Linglestown Road Overlay District and the applicant proposes to have the east facing sign of the sign feature a changeable message sign that would operate and function per the Lower Paxton Township Zoning Ordinance regulations.

Mr. Freeburn noted that it is customary for the Board to mark the application for variance as an exhibit and he questioned if the applicant had any problems with that. Attorney Henninger answered that he had no objections.

Mr. Freeburn requested Mr. Rebuck to explain to the Board what he proposed to do and why it should be granted.

Mr. Rebuck explained that he proposes to replace an antiquated billboard with a new one. He noted that the existing billboard is located on Linglestown Road, 400 feet west of Colonial Road. He noted that he is happy to be at the meeting for three reasons, the first that the new sign would be a big improvement in many ways; two, businesses, charities, law enforcement organizations and commuters love billboards and this unit once it is built will benefit many of those folks. He noted that the third reason is that the Township is a great place to live, work and play and a great place for his billboard business.

Mr. Rebuck noted that Exhibit A-6... Attorney Henninger interrupted to state that he has a new packet of information that may be easier to follow along and requested to distribute it to the Board members. Mr. Freeburn responded that everyone is very familiar with the location and the billboard as many Board members pass it every day. He noted that the Board does not need a lot of testimony about what is there now, rather more about what Mr. Rebuck proposes to replace it with.

Attorney Henninger questioned Mr. Rebuck to describe what is there and what you propose and how it would be different and possible better than what is there now. Mr. Rebuck noted that it is a side-by-side billboard built on six I-beam posts. He noted underneath that picture is a replica of what the proposed billboard would look like, using a single face sign built on a single post.

Attorney Henninger questioned if the current sign is located in a floodplain. Mr. Rebuck answered yes, as it sits in an undeveloped area as it is in the Paxton Creek floodplain and the new sign would be in the same general area.

Attorney Henninger noted that there are six posts in the floodplain and with the new sign, it would be a single round pole support. Mr. Rebuck answered yes, noting that it is a modern sign, with a pedestal about 12 inches in round, 30 foot overall height which is a tad taller than what is there now and it will be built to the specifications of the engineer who provided the blueprint.

Attorney Henninger noted at the present time it is a two-faced sign in each direction, correct. Mr. Rebuck answer that was correct as it is now; there are four faces, each measuring about 250 square feet providing 500 feet of advertising going in both directions. He noted when the new sign is put up it will be reduced in half only having 250 square feet. Ms. Cate questioned if it would be on both sides. Mr. Rebuck answered that it will be a single face sign back to back so each sign would have 250 square feet.

Attorney Henninger questioned Mr. Rebuck if he would be reducing the copy from four faces to two faces. Mr. Rebuck answered yes.

Attorney Henninger noted that Ms. Moran stated that it is an existing nonconforming sign at present. He noted that you also have an issue with a section of the Zoning Ordinance that states if you are replacing the entire support structure you need to bring it into conformance with the ordinance, but that would be impossible, correct. Mr. Rebuck answered that is true as it was built in 1976 by a company called Capital Outdoor Advertising and Whitco subsequently purchased the sign and then Lamar bought the billboard structure. He noted when the Bumble Bee Golf Course was developed in 1995 there were two signs at that location and he rebuilt the one sign at that time. He noted that it was located in the middle of their parking lot and he pushed it to the edge of the parking lot, but since this sign was not in a developed area and not in the way of development it remained the same. He explained that this variance would provide him an opportunity to modernize the sign, reducing the overall area in half for the number of faces.

Attorney Henninger noted in order to do that Mr. Rebuck is proposing that one side of the sign be a digital or changeable message sign. Mr. Rebuck explained that Lamar Advertising is a national company and it developed digital signage for the billboard industry, the first one installed in October 2004 in the Harrisburg area. He noted since that time in 2007, two additional signs were installed in Lower Paxton Township, one on Route 22 above the El Rodeo Restaurant and the other one on Union Deposit Road in the area of Lowe's Store. He noted when he applied for those signs before the Board of Supervisors in 2006; he stated at that time that he would like to have three changeable message signs in the Township. He noted that he explained at that time that the third would be on Linglestown Road at this intersection.

Mr. Rebuck noted that the use of these signs provides another way to change the copy on the sign. He explained that he will show a four minute video to the ZHB that will explain it. He noted that it is like a slide show that will keep the same message for one minute and then it changes to the next message. He explained that it is an instantaneous change. He noted that the value of that changeable message sign has been proven very quickly since the first one was installed in the area in 2004.

Attorney Henninger questioned what benefit that would be noting that it is located in the Linglestown Overlay District and billboards are prohibited in that district. Mr. Rebuck noted that he reached out to members of the community asking for letters of support and he suggested that he could have gotten one hundred more letters, as there are so many business people in the area that like billboards, and changeable message signs, that it is easy to find business people. He noted that you have a letter from Frank Whitcomb who owns the Whitco Furniture Store and has been using billboards since 1985 and he knows that it is great to have a local outlet for his message. He explained that he donates billboard space to charitable organizations at no charge whenever he has the empty room. He noted that Hospice of Central Pennsylvania has provided a letter in support of this variance. He noted that there is a letter from Dr. Craig Mathias who runs the Metzger Tennis Open, a local charitable event held at the Colonial County Club and he mentioned that he has been on that billboard for the past ten years. He noted that law enforcement agencies really benefit from changeable message signs. He explained that Sgt. Anthony Manetta wrote a letter explaining how Lamar Advertising has partnered with the Pennsylvania State Police and the Amber Alert Program, noting if there was a confirmed Amber

Alert in Lower Paxton Township, Sgt. Manetta has the power at his desk to put an ad on the two changeable message signs located in the Township to provide the information to the motorist.

Attorney Henninger questioned what about local police emergencies in Lower Paxton Township. Mr. Rebuck answered that we have not provided that access to any local enforcement noting that it is a content issue and there are questions as to who would post the message and when they would do it. He noted when the I-10 Bridge collapse in Minnesota, the first place that people spread the news about the problem was the changeable message signs, telling people to stay away from that area. He explained that he ran messages to prepare for Hurricane Sandy for the American Red Cross.

Attorney Henninger noted that he wanted to address the variance issues with regards to the sign. He noted that it was mentioned the unique circumstances to the area with the floodplain and that the land is not developable. He noted that it is a preexisting nonconforming use and he proposed to make it less so by shrinking the size of the signage in half. He questioned if the use would alter the essential characteristics of the neighborhood. Mr. Rebuck noted that many members of the Board mentioned that they drive on Linglestown Road, so they can picture the sign, with the car wash to the west, Arroga's to the east, and Sheetz and Centric Bank across Linglestown Road. He noted that there are no homes or residences that can view the billboards that he could find. He noted that it is located in a truly commercial area.

Attorney Henninger noted that he has no further questions for Mr. Rebuck and would like to show a four minute video regarding billboards at this time. (Video was shown.) He noted that the video contained a statement that the message change is from six to eight seconds, as that is an industry standard is, however, the Township Ordinance provides for one minute interval and that is what Lamar will follow.

Mr. Turner questioned if there would be any animation, moving figures, or just a static advertisement for that one minute. Mr. Rebuck answered yes as he will meet the present ordinance that the Township has as it will be like what he has done for the past six years for the other two signs in the Township. Attorney Henninger noted that it is an instantaneous change, not a fade in or out.

Mr. Freeburn noted that there are two billboards on four faces. Mr. Rebuck noted for this particular sign, there are four faces. Mr. Freeburn questioned if Mr. Rebuck intends to reconstruct the billboards regardless. Mr. Rebuck answered that the plan is to take down the existing signs and put up one new sign, a modern sign with one face towards Linglestown and another traveling towards the Susquehanna River. Mr. Freeburn noted under the current ordinance, if you take the signs down you have no right to a billboard at this location. Attorney Henninger answered that is correct and the request for a variance in that provision to update and make it less nonconforming than it currently is. He noted now, you have 500 square feet in each direction and he would take out the six pieces of angle iron that is obstructing the flow in the Paxton Creek flood zone and replace the structure to make it conforming, if it was a permitted use to make it conforming. He noted that it would be conforming except for the location. He noted that he is shrinking the sign and making it safer, getting rid of the six structures and only

having one support structure. He noted in order to do that to make it less nonconforming he would like one side of the sign to be changeable message copy.

Mr. Freeburn questioned if the Zoning Hearing Board does not grant the relief for a changeable copy sign what is your plan. Mr. Rebuck answered to let the signage stay the way it is for awhile. He noted that he has the capital approval to build more changeable message signs. He noted that Lamar has 17 signs and he hopes to get to 20 to 30 signs in the next couple of years and he has the capital money to do it now. He noted if he gets the approval he is ready to make the transition; otherwise he would stay where he is as he has four faces and they are really valuable to him. He noted that he would be happy to keep it the way it is but much happier to change to the changeable face.

Mr. Freeburn questioned what the proposed height of the sign is. Mr. Rebuck answered that the blueprint shows it as 30 feet. Mr. Freeburn questioned what the current height is allowed for a billboard. Mr. Rebuck answered 26 feet. Mr. Freeburn questioned what the dimension of the current sign is for each face. Mr. Rebuck noted that they are 10'9" tall and 22'3" long. He noted that the proposed billboards will be the same size as the face that is there now. Attorney Henninger noted that there would only be one as opposed to two. He noted that it would be four feet higher noting that a 30-foot height would be conforming in the L-I and G-I districts where they are permitted.

Mr. Freeburn noted that the argument made about the signage being conforming in all ways except for the location could be made for anyone who comes before the Board, noting that it would be conforming in a commercial district except that the applicant wants to put it in an R-1 District, therefore the variance should be granted. Attorney Henninger noted that is true except Mr. Rebuck has a nonconforming billboard located in that site and they propose a change to a less nonconforming use. Mr. Freeburn noted that the changeable message board and the illumination is a business decision on Mr. Rebuck's part and you could probably get a third of the price for a piece of vinyl verses that changeable message. Mr. Rebuck noted that it is an economic decision but they are just more nimble as the copy can be changed by a computer, noting that it is a true strength of the medium.

Mr. Rebuck noted in regards to the brightness and lighting, these machines are very smart. He noted that Lamar runs a 24/7 operating center in Baton Rouge, Louisiana, where every sign is reviewed diagnostically every minute of every day. He noted that a camera shines on the billboard and another that shows the road to the people at the command center. He noted that the lighting is very sophisticated, and Lamar has been operating this since 2004. He explained that he doesn't get complaints from motorists or municipalities as they are no brighter than any other billboard whether it is lite with a 250 watt hyalophane or with the LED's.

Mr. Freeburn questioned what makes your billboard and location different from any other location, in a similar district, when an applicant comes and stated that they are not permitted to have changeable copy, an item that Mr. Rebuck wants, and the Board allows Lamar to have one, therefore it should not deny anyone else.

Attorney Henninger questioned Mr. Rebuck if there are any other billboards located in the Linglestown Overlay District. Mr. Sirb answered that there are two that he knows of, at Memorial Eye Institute... Mr. Freeburn noted that it is not a billboard as it is located on the business site... Mr. Sirb questioned if it was a changeable sign... Ms. Moran answered that it is not a billboard as it is a monument sign with a changeable copy. Mr. Freeburn noted that Memorial Eye Institute got their sign when there was no ordinance to cover LED lights. Ms. Moran noted that they had the suction cup lettering prior to that and when you have changeable copy then you are entitled to that. Mr. Sirb noted that they were allowed to upgrade as they had the preexisting changeable copy sign prior to that.

Mr. Freeburn questioned if Mr. Rebuck owns the billboard sign on the other side of the road on Linglestown by the car dealership. Mr. Rebuck answered yes as they are the predominate billboard provider in the area, noting that he has 1,200 sign faces, and there are three total structures on Route 39, two on the Bumble Bee Property and one at the Linglestown Church of God. He questioned if Lamar would come back some day and ask if they could change that sign as well, he noted that he would cross that bridge another day as it won't be anytime soon. He noted that his testimony in 2006 to the Board of Supervisors was within reason, stating that he wanted to have three and maybe four signs and here we are six years later, he did get the two that he mentioned and this will be the third. He noted that the fourth one he can't do as a result of a State law as it would require a local and state permit. Mr. Turner noted that in distinguishing this from another situation he would put a trade off in the decision of the one for two, as it would be part of the decision versus some other variance request.

Mr. Dowling noted that the real issue is not whether the changeable copy billboard is good as we recognize that they are as the Township has two of them, but the legislative part of the Township stated that they are a good idea but we don't want them in the Linglestown Overlay District. He noted that there needs to be some overriding or compelling reason why we should overrule to say we disagree with the Board of Supervisors to agree that one should be located in this area. He suggested that there are two or three different issues. He noted that there are two issues with relation to the Linglestown Overlay District where billboards are not permitted and changeable copy are not permitted. He noted when the Supervisors looked at this they were aware of changeable copy and it was something they didn't want in this district.

Mr. Freeburn noted if we grant a variance here, as Mr. Dowling pointed out, there has to be some compelling reason why this property is unique to get a variance from the legislative body's decision as to what the zoning should be in this situation. He noted that is why he questioned what is different about this. He noted that Mr. Turner brings up a good point as well that we are giving up one of sign to decrease the display to only one sign.

Attorney Henninger noted that it will be a more attractive circumstance to allow one sign than to keep what exists presently. He noted that he understands that the Board of Supervisors don't want changeable message signs on Linglestown Road in that overlay district and in any other overlay district, but as you noted there are two other signs on that road with moving script that can be distracting. He noted that Mr. Turner noted that we will make it half the size and it will be a nicer looking structure, and adding in the public safety aspects for Amber Alerts ability

that it is worth considering to allow that to occur. He noted that Mr. Rebuck stated that he would basically leave it as it is if they can't get the changeable message sign. He noted that it does not make sense to tear down the structure to go from four faces to two faces without having the changeable message option. Mr. Freeburn noted that the Board of Supervisors probably indicated that they don't want to have changeable message billboards because it is just more visually obtrusive. He noted that the four faces that you have, noting that he doesn't pay much attention to billboard signs as he drives by those four billboards as they tend to blend in with the background, whereas the changeable message is more in your face. He noted that is what makes it more valuable as it screams out at you, look at me. He noted that is what the Board might have been concerned about. He noted that he finds the changeable message sign at the firehouse very annoying. Mr. Rebuck suggested that the Board was concerned not so much for the off premises sign, as billboards are very limited on that road as it is, but every store front could have a changeable message sign that would become a mini-strip of concern, especially because it is very hard to police 50 different businesses, whereas, when you are dealing with Lamar for billboards, you would not have that issue. He noted to create an overlay district and to say no changeable message signs made sense. He noted that he had the option to attempt to change the ordinance to allow changeable message signs and he could do that but it is a one-time opportunity for this Board to consider the opportunity to say yes, take your four faces down, put your two faces up and install a changeable message sign. He noted that it is not a proliferation, ten or fifty different signs in a residential area that is along that road that is truly in a commercial zone. He suggested that he is not going against the greater wishes of the Board in the research he did, in his humble opinion.

Mr. Sirb noted in that area you have the Sheetz sign that is a bright sign, the Arroga's sign that you can't miss along with the Weis sign and Mr. Rebuck is going from 500 square feet to 247 square feet, but it bothers him that it is four feet higher. He noted that he wants to see the same footprint. He noted if you are telling me that you plan to reduce the footprint, he is more sellable for that, but if you go four feet higher then there is another huge spotlight aimed at him when he is driving. Mr. Rebuck noted that we are looking to be in the line of site with the road, as the ground is lower than the road. He noted that it changed since 1976 as the road got built up but the sign did not. He noted that brush grows on the corner property that is not trimmed and it is a matter of getting above that. He noted that the ordinance allows for a 40-foot height, but he did not want to go 40 feet, just a little higher to get above the brush that grows on the neighbor's property that is not developed. Mr. Freeburn questioned if 40 feet for a billboard is allowed; although it would not be allowed in this district. Mr. Rebuck answered that a 40-foot billboard is allowed in the industrial zone.

Mr. Freeburn noted that he has a concern about creeping, noting that the next guy that comes in that has a sign on his property and he wants a changeable message and he says that the Zoning Hearing Board permitted these Lamar to have it so there is no difference. He noted if you come back with a request for the sign at the used car dealership noting that there is a sign at the firehouse across the street with the idea that Mr. Rebuck's request wouldn't change the character especially since you were granted this variance. He noted that he has a concern about the gradual erosion of what the Board of Supervisors wanted to do and if they want to change the

zoning ordinance that is up to them, they have the right to do that. He noted that he understands the point with reducing the overall size of the billboard from two billboards with four faces to one billboard with two faces. He noted that he needs to think about that and see if it is a reasonable trade off. Attorney Henninger noted that is what he is proposing, to trade off half the size to have the changeable message and less obstruction in the floodplain using one support instead of six pieces of angle iron. He noted that he has seen photographs where those six pieces of angle iron grabbed all kinds of stuff in the Paxton Creek, noting that it would make it more attractive.

Mr. Staub questioned if the existing signs would they be considered a double-sided sign. Mr. Rebuck noted that it is a double-sided sign with two faces on each side. Mr. Staub noted in terms of the sign ordinance, with two 250 foot signs for a total of 500 square feet, if you look at the definition of a double-sided sign, even though there is an aggregate of 500 square feet per side, the ordinance only recognizes the total sign area to be 500 square feet, noting that you don't double count. He noted that the sign that Mr. Rebuck is proposing is not a double-sided sign, but a v-shape sign, and the ordinance clearly states for a v-shape sign, both faces shall be considered in computing the sign area. He noted in terms of the sign ordinance you have 500 square feet of signage with your proposal and the existing sign is 500 square feet. He noted that the sign ordinance would suggest that you are not changing the square footage of the proposed sign. Mr. Rebuck noted when looking at those ordinances, you are only talking about that kind of mat when it is opened up or the interior angle is so severe that you are showing both sides to people driving by. He noted that we have a small v and the reason we do that is to maximize the viewing point for the motorist. He noted that he could put the signs straight back-to-back but it becomes a point of contention, and it is not a very big v-sign.

Mr. Freeburn noted that Mr. Staub is saying that you must consider both sides of each sign face because it is at a V-angle. Mr. Staub noted that it does not specify the angle, only a v-shaped sign. Mr. Freeburn questioned, if you have a v-shaped sign that is at a severe enough angle that you really can't put a sign on the reverse sign, is it a sign if is impossible to use it as a sign. He noted that the V-shape that Mr. Rebuck is proposing is severe enough angle that you would not be putting signs on the opposite angel. Mr. Rebuck noted that it is only six to seven feet between the signs.

Mr. Staub noted if you are proposing to erect another structure in a floodplain that would require a variance. Mr. Sirb noted that Mr. Staub is correct. Attorney Henninger noted if that is the case, he would like to amend the application with regards to that as the new situation would be much better for the floodplain by taking out the six pieces of angle iron, and installing one piece that would not impede the flow and improve the waterway. Mr. Turner noted that it crossed his mind, but we couldn't act on that tonight as it was not part of the advertisement for the hearing as there was nothing mentioned about floodplains. He noted that he did not know what the Township's position would be in regard to it. Ms. Moran explained that she spoke with Mr. Wolfe today about this matter and as the sign was not to be expanded, he didn't see an issue with it.

Mr. Freeburn noted that he is looking at the existing sign and he sees six support structures and the proposed sign has a single support structure which might be larger than any of the six, but overall it would take up less space than all six combined. He noted that he has not made a decision and he is trying to be fair. Mr. Turner noted that the floodplain issues is not before us as it would be up to the applicant to submit an application to put the sign up, if the Township doesn't feel that he needs it, it is not an issue, but if they feel he does need it, he will have to reapply and come back to another meeting.

Mr. Freeburn questioned if the current sign is a lighted sign. Mr. Rebuck answered yes. Mr. Freeburn questioned how the changeable sign is visible during the daytime. He questioned how it shows up during the bright sunlight. Mr. Rebuck answered that the system is very bright and a very smart system. He explained that it is controlled by a photocell so it will tell itself to brighten up as the sun is getting brighter and at the same time it has a computer system, an override that is set up knowing when sunrise and sunset occurs. He noted if you drive by day or night it should look like a regular billboard. He noted if we look at the one above the El Rodeo Restaurant, it looks like a normal billboard with a 250 watt light shining on it, only it is lit with LED's. He noted as dusk fell tonight, it would dim down, and tomorrow morning it will brighten back up.

Mr. Freeburn noted that you could sell 60 different images on that side at one per minute. Mr. Rebuck noted that he limits it to six total advertisers as they like to see their message often enough to provide drivers enough time to view it in a given advertising cycle noting when he doesn't have six customers he provides complimentary space to non-profit organizations.

Mr. Freeburn questioned if it is a rotating basis so that the image doesn't come up again until the sixth rotation. Mr. Rebuck answered that is correct. He noted that advertisers can schedule it themselves or they can use Lamar services to schedule it. He noted that you can have five different ads, rotating in equal amount of, or the same ad, or in the morning you can talk about eggs and bacon, lunchtime cheeseburgers, and at dinner meatloaf. He noted that it allows a lot of flexibility with your ad copy.

Mr. Sirb noted that he does not think it changes the character of the area as Sheetz and Arroga's are all in that same location. Mr. Freeburn noted that he is trying to be fair looking at it from Mr. Dowling's standpoint. He noted what weighs on his mind is that the existing signs are already lighted and if there is a concern about it being too obtrusive, the existing signs might already be considered to be too obtrusive as they are lighted signs.

Mr. Dowling noted that the intent of the ordinance for the Linglestown Overlay District is not only do we not want billboards obstructing, but when the billboards that are currently there, deteriorate, they will need to come down and eventually there would be no billboards in the Linglestown Overlay District. He questioned if that is what Article 713.B says, "When replacing the entire support structure wears out, a new sign must be in conformance with the ordinance", and the ordinance says no signs. He suggested that the intent was that someday there would be no billboards in the Linglestown Overlay District even though they are there now.

Mr. Turner questioned if that section of the ordinance would be constitutional, noting that you could have an exception that would prevent the person from rebuilding it. He suggested that he could see a fight down the road on that one. Mr. Sirb noted that he agreed to that to a point, but there are so many businesses in that area that are each entitled to an advertising sign. He noted that you can call it a billboard or directional sign or advertising sign, but these things are huge.

Mr. Freeburn noted for a practical matter, there are four signs that are generating income for Lamar and property owners. He noted that those signs are never coming down until someone wants to build a building on that land, and they would pay Lamar to get ride of its future income stream. He noted that Lamar wants that property unless the DiSanto's doesn't renew the lease in order to build on that property. He noted that he did not know if DiSanto has the right to pull that lease, but those billboards are producing income. He noted if Lamar planned to take the billboards down his decision would be really easy as he would not be permitted to have a billboard in this district unless he rebuilt the exact same billboard.

Mr. Freeburn questioned if the Board had any questions.

Mr. Freeburn wanted the record to reflect that there was no one in the audience to be heard on this application.

Mr. Freeburn noted that hearing no further testimony by the applicant, board members, or the audience, the board has 45 days to render a decision relative to this application.

Mr. Staub made a motion to deny the variance application as submitted. Mr. Dowling seconded the motion. Mr. Dowling noted that they are a great idea and perform a good service for the Township and he is glad that we have two and he would not be opposed to a third in another district. He noted that he does not know what the reason was for prohibiting them in the Linglestown Overlay District and he suggested that it was for a good and valid reason. Mr. Staub noted that the time that the sign ordinance was worked on, by Township staff and the Sign Committee comprised of many different individuals in the Township such as business persons and others, that there was a lot of work done regarding the Sign Ordinance. He noted that he can't easily dismiss that as there has to be a compelling reason for the Supervisors to adopt that decision for the Linglestown corridor as well as for Locust Lane.

Mr. Freeburn questioned Ms. Moran if the Township has an opinion for this variance. Ms. Moran answered that it does not.

Mr. Sirb noted that it is tough for him but he sees it as improvement as he does not like the wooden billboards as they are hazard and do not look attractive and it does not change the characteristic of the neighborhood at all. He noted that Linglestown Road is a business district. He suggested that it is a visual improvement.

Mr. Turner conducted the following roll-call vote: Mr. Staub, aye; Mr. Dowling, aye; Mr. Sirb, nay; Mrs. Cate, nay; and Mr. Freeburn, nay. Mr. Freeburn noted that the motion was defeated.

Mr. Sirb made a motion to approve Docket #1327 as submitted with the condition that Mr. Turner rose that the floodplain issue be resolved.

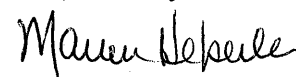
Mr. Freeburn noted that he would like to add another condition to the motion that the sign be no higher than the existing sign and have no animation to the changeable copy provision. Mr. Sirb accepted that addition to his motion. Mr. Rebuck stated that is fine as he will keep the sign at the same height with no animation, and deal with the floodplain condition.

Mr. Dowling noted that he would like to raise another issue, noting that the applicant stated that there are six advertisers permitted on a monthly basis and if all six are occupied any available space be given to a charity. He noted that he would like to add an amendment that at all times, one space be dedicated, as a priority space, to charity, non-profits, police or fire organizations so that at all times one of those spaces would be a priority message as opposed to only occurring if space is available. Mr. Freeburn noted that he did not know if the applicant would be willing to do that. Mr. Rebuck noted that it does not make sense to him. He noted that Lamar runs a great ship and we are so blessed in this area. He noted that he could have filled this room with people who would testify to the generosity of Lamar advertising. He noted that we don't need a law or a gun held to our head at all about donating space and advertising. He explained that he gets ten phone calls a day and he says yes ten times. He noted that it is not necessary and he would ask that you not make that a condition of the motion. He noted that it might cause hard feeling to have that as some sort of rule and there doesn't need to be hard feelings because we would do it anyhow. Mr. Freeburn noted that we understand the applicant's position on that however; we have a motion on the table that Mr. Sirb made with an amendment that it is the same height as the existing sign and no animation to conform to the changeable copy. He noted that it would have no animation because even if the commercial district should change and allow animation we don't want any animation in this area. Mr. Sirb noted that he is comfortable with that, with the floodplain and the height of the sign and no animation. Attorney Henninger noted that the applicant is satisfied with that also.

Ms. Cate seconded the motion. Mr. Turner conducted the following roll-call vote: Mr. Staub, nay; Mr. Dowling, nay; Mr. Sirb, aye; Mrs. Cate, aye; and Mr. Freeburn, aye. Mr. Turner noted that the motion carried.

The hearing ended at 8:10 p.m.

Submitted by:



Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
APPLICATION OF : TOWNSHIP ZONING HEARING BOARD
LAMAR ADVERTISING : DAUPHIN COUNTY, PENNSYLVANIA
: DOCKET NO. 1327

DECISION GRANTING VARIANCES

The applicant seeks variances in connection with the proposed erection of billboards within the Linglestown Road Overlay district. A hearing on the application was held on January 10, 2013.

Facts

1. The applicant and lessee of the property in question is Lamar Advertising of 308 S. 10th Street, Lemoyne, Pennsylvania. The applicant was represented at the hearing by Andrew Rebuck, Vice-President. The property is owned by A.D. DiSanto Limited Partnership of 5351 Jaycee Avenue, Harrisburg, Pennsylvania.

2. The property in question consists of a multi-acre parcel on the south side of Linglestown Road which is currently developed as a golf driving range. The applicant has erected billboards on the property which presently consist of a six post double sign with two sign faces facing each direction of travel on Linglestown Road. The existing signs are 250 square feet for each of the four sign faces.

3. The applicant proposes to remove the existing structure and replace it with a single pole structure with a single face in each direction. Each face would be 250 square feet, effectively cutting the size of the billboard in half. One side of the new structure would be an electronic face allowing the message to be changed instantly. There would be no animation or motion in the messages and the sign would be programmed to allow the messages to remain in place for a minimum of 60 seconds.

4. Notice of the hearing was posted and advertisement made as required by the ordinance.

5. No one other than the applicant appeared to testify either in favor of or against the proposed variances.

Conclusions

1. The Township sign regulations prohibit billboards in the Linglestown Road Overlay district and prohibit the reconstruction of existing non-conforming billboards. Further, changeable copy signs are prohibited in the Linglestown Road Overlay district. The proposed new structure would violate these sections of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship in that the existing structure is non-conforming. Preventing its reconstruction would deny the reasonable use of this portion of the property due to wetland issues which would prevent its development.

4. Granting the variance will not alter the essential character of the neighborhood nor adversely impair surrounding property values. The elimination of two billboard faces will bring the property into closer conformity with the present zoning regulations. The changeable copy sign will have little visual impact above that of a static billboard in that the message will likely be static to the typical driver proceeding along Linglestown Road. Replacing the existing six pole structure with a monopole design will also diminish flood plain obstruction.

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variances requested should be and are hereby granted

allowing the replacement of the existing four billboard faces with a new two face monopole billboard with one electronic face on the following conditions:

- (a) the applicant must conform to applicable Township flood plain requirements;
- (b) the new sign shall be no taller than the existing billboard;
- (c) no animation or motion be used on the changeable copy sign and message changes be not less frequent than one per minute.

In all other respects construction shall be in strict conformity with the plans and testimony submitted to the Board.

Date: 1/24/13

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD

Richard E. Freeburn

Gregory P. Sirb

Sara Jane Cate

Board members Dowling and Staub dissent from the decision of the Board.

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of January 10, 2013

Members Present

Richard Freeburn
David Dowling
Sara Jane Cate
Greg Sirb
Jeffrey Staub
Watson Fisher

Also in Attendance

James Turner
Dianne Moran
Watson Fisher

Docket 1328

Applicant: Alpine Sign and Lighting

Address: 280 North Park Street
Dallastown, PA 17313

Property: 6060 Allentown Boulevard
Harrisburg, PA 17112

Interpretation: Article 714.A - Permanent signs: Wall Signage; Maximum Area: Ten Percent of the vertical building wall face to which the sign is attached. Wall signs shall be allowed on up to two sides of the building. Number Permitted: Two per establishment per side of a building.
The applicant seeks a variance from the maximum area and number of signs permitted by Township ordinance.

Grounds: Article 714 of the Lower Paxton Township Zoning Ordinance pertains to this application.

Fees Paid: December 10, 2012

Property Posted: January 3, 2013

Advertisement: Appeared in The Paxton Herald on December 26, 2012 and January 2, 2013.

The hearing began at 8:11 p.m.

Mr. Freeburn swore in Doug Bray. Mr. Bray explained that he works for Alpine Sign and Lighting with an address of P.O. Box 482, 280 N. Park Street, Dallastown, Pennsylvania. He noted that he represents the sign manufacturer working with Freedom Automotive.

It was noted that Ms. Moran was under oath from the previous testimony.

Ms. Dianne Moran advised that the appropriate fees were paid on December 10, 2012. The proper advertisements appeared in The Paxton Herald on December 26, 2012 and January 2, 2013. The hearing notices were posed on January 3, 2013.

Mr. Freeburn questioned what ordinance this variance request was for. Ms. Moran answered Article 714.A - Permanent signs: Wall Signage; Maximum Area: Ten Percent of the vertical building wall face to which the sign is attached. Wall signs shall be allowed on up to two sides of the building. Number Permitted: Two per establishment per side of a building. She noted that the applicant seeks a variance from the maximum area and number of signs permitted by Township ordinance.

Mr. Freeburn noted that it is customary for the Board to mark the application for variance as an exhibit and he questioned if the applicant had any problems with that. Mr. Bray answered no.

Mr. Freeburn requested Mr. Bray to explain to the Board what he proposed to do and why it should be granted.

Mr. Bray noted that he could not meet the zoning regulations with the number of signs on the building but he should be able to meet the square footage amount, allowing for ten percent of the area on two sides. He explained that Freedom Automotive is remodeling under the new Chrysler Program which includes Jeep, Ram, and Dodge. He noted that they want to eliminate the older signs and upgrade it with the new logos for Chrysler, Jeep and Dodge. He noted that it would exceed the quantity of signs permitted on the building but it would improve the situation as they would have fewer signs on the building than what are there now.

Mr. Bray noted that he would be removing 11 signs and replacing those with eight new signs, noting that the 11 signs make up 763 square feet and the eight signs would be a total of 315 square feet. He noted that it would result in fewer signs and less square footage. He explained that it would improve the non-conforming zoning package. Ms. Moran noted that she thought the reduction would amount to 327 square feet. Mr. Staub agreed.

Mr. Turner noted that the meeting would go off the record while Ms. Moran and Mr. Bray recalculated the final number for total square footage. Mr. Turner noted that the Board is back on the record and the correct amount of square footage is 328 square feet.

Mr. Bray explained that page ten of his packet shows both sides of the building and the proposed placement of the signage. He noted that the front would have five signs: Chrysler, Dodge, Freedom, Jeep and Ram, and the side of the building would have three signs, two reading

Service, located over each service bay door, and one with the Mopar logo and wording located between the two service bays. He noted there should also be a series of six pictures in the packet showing the following signs to be removed: E-05, 16 square foot; E-05, 12 square foot; E-01, replaced with the new logos with 52 and 48 square feet removed and an 80 square foot sign for Freedom Automotive. He noted that the three signs on the service side would be removed. He explained that he is eliminating three signs and square footage. Mr. Sirb questioned if he would be removing the banners. Mr. Bray answered that he would be removing three of the banners.

Mr. Bray concluded his testimony.

Mr. Freeburn questioned if the Board had any questions.

Mr. Freeburn wanted the record to reflect that there was no one in the audience to be heard on this application.

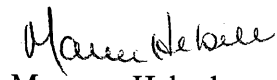
Mr. Freeburn noted that hearing no further testimony by the applicant, board members, or the audience, the board has 45 days to render a decision relative to this application.

Mr. Staub explained, before he makes his motion, he questioned Ms. Moran if this dealership is on one parcel that includes the Toyota half of the business that has it owns signs. He questioned if the buildings are attached, as they may be, and he is concerned about the signage on the Toyota building. Ms. Moran answered that it is up to the Zoning Hearing Board if you care to do anything about that issue as she noted that they have identifying signs for Toyota and Scion. Mr. Staub questioned if it makes a difference and affects the variance the Board is looking to grant. Ms. Moran answered that those signs are existing and they plan to keep them.

Mr. Staub made a motion to approve Docket #1328. Ms. Sirb seconded the motion. Mr. Turner conducted the following roll-call vote: Mr. Staub, aye; Mr. Dowling, aye; Mr. Sirb, aye; Mrs. Cate, aye; and Mr. Freeburn, aye. Mr. Turner noted that the motion carried.

The hearing ended at 8:25 p.m.

Submitted by:


Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
ALPINE SIGN & LIGHTING : DOCKET NO. 1328

DECISION GRANTING VARIANCE

The applicant seeks a variance from the number of allowed wall signs. A hearing on the application was held on January 10, 2013.

Facts

1. The applicant and project contractor is Alpine Sign & Lighting of 280 N. Park Street, Dallastown, Pennsylvania 17313. The application was submitted on behalf of Harrisburg Realty Joint Venture, the owner of the subject property.

2. The property in question is located on the northeast corner of U.S. Route 22 (Allentown Blvd.) and Mountain Road and consists of a multi-acre parcel developed as a multi-franchise car dealership. The parcel is zoned Commercial General.

3. As part of a signage upgrade to the property, the applicant proposes to replace the existing Chrysler Motors signs with a new Chrysler Jeep Dodge Ram signs. This will result in a net removal of three signs and a reduction in total sign area from 763 square feet to 328 square feet.

4. In addition to the net removal of three signs, the applicant proposes to remove three banners from the property.

5. Notice of the hearing was posted and advertisement made as required by the ordinance.

6. No one other than the applicant appeared to testify either in favor of or against the proposed variance.

Conclusions

1. Article 714.A of the ordinance limits the number of wall signs to two per side on a maximum of two sides per building. The proposed sign package would violate this section of the ordinance.
2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.
3. The Board finds that the property is burdened by a hardship in that its corner location requires identification of the site from multiple directions. This hardship is further compounded by the multiple brands and activities being conducted on the premises. These factors reasonably require multiple signs to allow patrons to navigate the site.
4. Granting the variance will not alter the essential character of the neighborhood nor impair surrounding property values. The proposed package, while in excess of that allowed by the ordinance, is in closer conformity to the ordinance than the existing situation.

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is

hereby granted allowing the implementation of the sign package as submitted to the
Board and contingent upon removal of the signs and banners as testified to at the hearing.

Date: 1/24/13

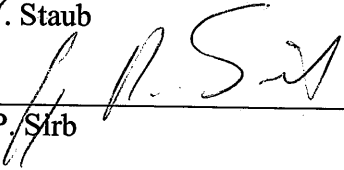
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